

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

Agenda # III.A.3.

Agenda Item Summary: The Board and department have proposed amending and adopting rules pertaining to Department Circular WQB-7 and outstanding resource waters.

List of Affected Rules: ARM 17.30.502, 17.30.516, 17.30.602, 17.30.607, 17.30.608, 17.30.610, 17.30.615, 17.30.619 through 17.30.629, 17.30.635, 17.30.641, 17.30.645, 17.30.650 through 17.30.658, 17.30.702, 17.30.705, 17.30.706, 17.30.708, 17.30.715, 17.30.716, 17.30.1001, 17.30.1006, 17.30.1007, 17.36.331, 17.36.335, 17.36.336, 17.36.345, 17.55.102, 17.55.111, 17.56.507 and New Rules I and II.

Affected Parties Summary: The proposed changes to some of the numeric water quality standards could affect parties that will be renewing or receiving a new MPDES permit for surface or ground waters.

The clarification of the surface water quality standards and stream classifications and the introduction and footnotes of WQB-7 (DEQ-7) will benefit all affected parties.

Scope of Proposed Proceeding: The Board is considering final action on adoption of amendments and new rules to the above-referenced rules as proposed in the Montana Administrative Register.

Background: Both the CWA and Montana's Water Quality Act require the Board to review and, if appropriate, revise the State's water quality standards and stream classifications at least once in three years. In recognition of this duty, the Department undertook a comprehensive review of Montana's rules establishing water quality standards. Based upon the Department's review the proposed rulemaking consists of revisions to the State's water quality rules, as follows: (1) revisions and updates to Department Circular WQB-7, entitled "Montana's Numeric Water Quality Standards"; (2) revisions and updates to ARM 17.30.601-670, which contains Montana's stream classifications and classification-specific water quality standards; (3) revisions to correct an error in the Mixing Zone Rules; (4) corrections to the Nondegradation Rules; (5) updates to the Groundwater Rules; and (6) updates to other rules that reference WQB-7. The Department is proposing these revisions to assist the Board in performing its triennial review of water quality standards required by both state and federal law.

The Department has notified the parties on the Department's WQB-7 interest persons list (about 800) of the proposed changes by a postcard mailing and held two informal public meetings to discuss the proposed changes to WQB-7. The Water Pollution Control Advisory Council (WPCAC) discussed the proposed changes to WQB-7 and water quality standards rules at its last two meetings. The WPCAC at its 25 August meeting recommended that the Department proceed and request the Board to initiate this rulemaking.

Hearing Information: Katherine Orr conducted a public hearing on November 29, 2005, on the

proposed amendments and new rules. The public comments received and the Department's proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Amendment and Adoption attached to this executive summary.

Board Options: The Board may:

1. Adopt the proposed amendments and new rules as set forth in the attached Notice of Public Hearing on Proposed Amendment and Adoption;
2. Adopt the proposed amendments and new rules with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and Adoption and the record in this proceeding; or
3. Decide not to adopt the amendments and new rules.

DEQ Recommendation: The Department recommends that the Board adopt the proposed amendments and new rules, with the revisions shown in the attached draft Notice of Amendment and Adoption.

Enclosure:

1. Notice of Public Hearing on Proposed Amendment and Adoption;
2. Hearing Officer Report; and
3. Draft Notice of Amendment and Adoption.